

STATE OF ALABAMA)
)
COUNTY OF HOUSTON)


AFFIDAVIT OF KEVAN KELLY

1. My name is Kevan Kelly. I am over the age of nineteen years. I am employed by the City of Dothan as an Attorney in the City Attorney's office. This Affidavit is based on my personal knowledge and my review of records maintained by the City Attorney's office.

2. On January 7, 2004, the City Clerk forwarded a claim against the City made by Theron Fondren to the City Attorney's office. On January 7, 2004, I requested an investigation to be conducted by the Police Department into the claim made by Mr. Fondren that he was falsely arrested. A copy of my memo requesting this investigation is attached as Exhibit A.

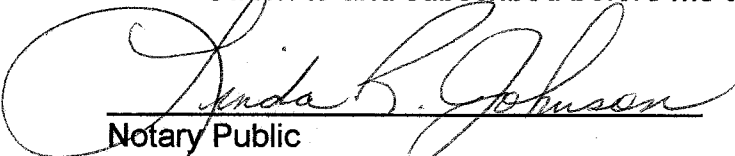
3. The investigation revealed that Mr. Fondren was properly arrested on a valid alias warrant. See Exhibit B. On April 2, 2004, I sent a letter to Mr. Fondren stating that his claim had been denied, which is attached as Exhibit C.

I have read the foregoing affidavit and I swear and affirm under penalty of perjury that it is true to the best of my knowledge and belief.


KEVAN KELLY

STATE OF ALABAMA)
)
COUNTY OF HOUSTON)

Sworn to and subscribed before me this 13th day of November, 2007.


Notary Public

My commission expires: _____
LINDA R. JOHNSON
Notary Public, AL State at Large
My Comm. Expires Nov. 17, 2009

MEMORANDUM

TO : John White, Police Chief

FROM : D. Kevan Kelly, City Attorney /K/K

DATE : January 7, 2004

RE : Damage Claim of Theron Fondren

Claimant alleges that on January 1, 2004 he was wrongfully arrested on a false warrant. Claimant is also asking to be reimbursed for a towing fee in the amount of \$158.90.

Please investigate this matter and report your findings to me. This request is made in anticipation of litigation.

DKK/jm

cc: Larry Muench, General Services

City Clerk's Department

Memo

To: City Attorney Len White
From: City Clerk Pam McCoy
Date: January 7, 2004
Re: DAMAGE CLAIM – Theron Fondren

Please process the attached claim.

cc: Mark Kight
cc: Larry Muench

1-7-04

City Clerk

Mo Ann is
pulling plw- will
send over
me

ON ~~Dec 28~~ Jan 1, 2004 I was
wrongfully arrested on a False
warrant. Mary Beth at the Magistrates
office can confirm this, she also
said that I should see you about
getting my Towing Fee reimbursed
\$158.90 My CRO contact
is Harrison Farr 677-1156 he
can also confirm This.

Theron Fendren
125 Bel Aire Dr
Dothan, AL 36303
791-8415
790-6898
792-0510

Thank
you
~~Y.M.A.~~

please contact
me as soon
as possible

I have included
my Towing Fee Bill

Driver Unit # 53

Invoice No.

28361

STORMIN'S

COM-HEK

DAMAGE - FREE TOWING

EFS

3151 E. Hwy. 27
Ozark, Alabama 36360
Telephone (334) 774-7138105 Race Track Rd.
Dothan, Alabama 36301
(334) 671-5500Driver's Name Theron Joseph Konde Date 11-1-04Location Wentgate & Raleigh STProblem W/Vehicle Tow To 105 RT RDCompany Bill To RetailAddress 749 N CL 69 City Hartford State ALZip 36344 Phone 791-8415 Odometer 175491Truck # Swap # Trailer # Year 85 Make VOLVO Model 460GL Color GrayVIN # 4V1AX8850F11656162 License # 381785 St. AL

	Start	Finish	Rate	Total
Local/ hookup Fee			@	<u>98.40</u>
Mileage	<u>5-3=2</u>		@ <u>75.00</u>	<u>150.00</u>
Trailer Additional			@	
Swapout Additional			@	
Recovery/Winch			@	
Additional Persons			@	
Cleanup Roadway			@	
Standby Time			@	
Additional Equipment			@	
Air Cushion Recovery			@	
Storage Fee	<u>11-1-04</u>	<u>2</u>	@ <u>24.00</u>	<u>48.00</u>

Notes:

APL 6352046

PL 1954

Tarp Fee Wknd/Night Addl Fuel Surcharge 7.20Paid Out Admin. Fee Dolly Charge Sub-Total 158.90Discount TOTAL 158.90P.O. #

Security Agreement

All accounts are due and payable upon receipt and are considered delinquent after 30 days. All accounts past due will be charged a default charge of 1-1/2% per month on the past due balance. This transaction constitutes the entire agreement between buyer and seller and the signature of the buyer shows acknowledgment of same. Buyer agrees to pay all costs of collection, including a reasonable attorney fee under the Constitution and laws of the State of Alabama and any state of the Union. Buyer personally guarantees payment of debt. Buyer agrees that vehicle was checked for any towing or recovery damage and by same has determined damage free and in satisfactory condition. Buyer grants to the seller a security interest in the above merchandise until the indebtedness, including finance charges, is paid in full. Until payment in full has been made, Buyer agrees that; 1. Seller shall retain title to said merchandise; 2. Buyer will have the risk of loss or damage; 3. Buyer agrees that Stormin's Inc. will hold an express lien on any vehicle towed or recovered and will not demand release of said vehicle until all towing, recovery and storage charges are paid in full. 4. Buyer will not sell, transfer possession or remove or encumber above merchandise without seller's written consent; 5. If Buyer defaults in the payment of any installment, Seller may declare the entire balance due and payable and Seller may at its option take back the merchandise or affirm the sale and hold Buyer liable for the unpaid balance, including any reasonable attorney fees or collection charges permitted by law; 6. The Seller shall have all rights, options and duties under the Uniform Commercial Code of the state. Security interest in the goods herein described shall terminate as the unpaid balance for them are paid.

Accepted By Date

THANK YOU

Mail all correspondence to 3151 E. Hwy. 27, Ozark, AL 36360, Telephone 334-774-7138.

Dothan Police Department

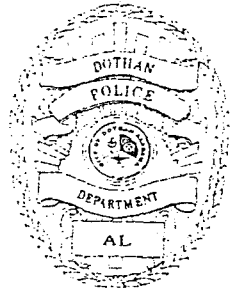
M E M O R A N D U M

FROM : Police Chief John C. White

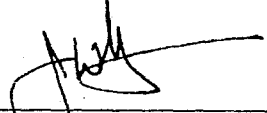
TO : City Attorney Len White

DATE : March 30, 2004

SUBJECT : CLAIM OF THERON FONDREN



Attached is the complete investigative report on the Claim filed by Theron Fondren. If you need any further information concerning this claim, please do not hesitate to contact me at 615-3601.



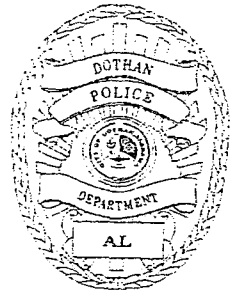
JOHN C. WHITE
Chief of Police

sl

Dothan Police Department

M E M O R A N D U M

FROM : Sergeant Gary S. Coleman
TO : Chief John C. White
DATE : March 24, 2004
SUBJECT : Theron Fondren - Damage Claim



Sir,

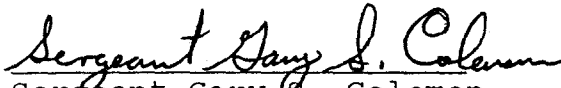
On 01/15/2004 I received a damage claim forwarded from Assistant City Attorney Kevan Kelley's office for investigation. This claim was filed by Mr. Theron Fondren for the reimbursement of \$185.90 towing fee that he incurred during his arrest on 01/01/2004 on a two-year old alias warrant. Mr. Fondren also claims that he was falsely arrested.

The facts of this incident are as follows:

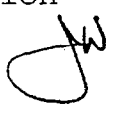
On 11/08/2001 Dothan Police Officer Chris Judah arrested Mr. Theron Fondren at 190 Festival Drive (fairgrounds) for public intoxication. Fondren was allowed to bond and given a court date of 11/26/2002. He was sentenced to complete a court referral program by 05/20/2002. On that date he was found not to be in compliance with the program and a motion was filed to revoke him and a new court date of 08/12/2002 was given. Mr. Fondren failed to appear on 08/12/2002 and an alias warrant for his arrest was then issued by Judge Rose Gordon.

Theron Fondren - Damage Claim
March 24, 2004
Page 2 of 2

The court referral program records show that Fondren completed the program on 12/17/2002, five months after the alias warrant was issued. On 01/01/2004 Mr. Fondren was arrested by Office Shane Ash on a traffic stop. Only after his arrest on the alias warrant did Mr. Fondren submit his court referral completion paperwork to the court on 01/08/2004. All records show that Fondren was arrested on a valid alias warrant.


Sergeant Gary S. Coleman
Internal Affairs Division

GSC/pd



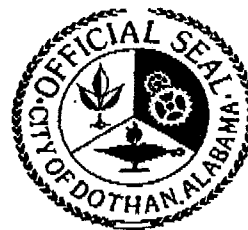
F. Lenton White
City Attorney

D. Kevan Kelly
Assistant City Attorney

Ashton Holmes Ott
Assistant City Attorney

The City of Dothan

Legal Department
Suite 313
City Hall Building
126 North St. Andrews Street
Post Office Box 2128
Dothan, Alabama 36302



Telephone (334) 615-3130 Fax No. (334) 615-3139

April 2, 2004

Mr. Theron Fondren
125 Bel Aire Drive
Dothan, AL 36303

Re: **Damage Claim**

Dear Mr. Fondren:

An investigation into your claim dated January 7, 2004 has been completed. The investigation reveals that you were arrested on or about June 1, 2004 on a valid warrant. The investigation found no negligence on the part of the City of Dothan, its officers or employees. Therefore, your claim has been denied.

Yours truly,

A handwritten signature in black ink, appearing to read "D. Kevan Kelly".

D. Kevan Kelly
Assistant City Attorney

DKK/jm